IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2146 OF 2005

NARAYAN GANESH KULKARNI & ANR. ... PETITIONERS.

VS.

DEPUTY REGISTRAR, CO-OPERATIVE SOCIETIES,MAHARASHTRA STATE & ORS. ... RESPONDENTS.

MR. M.K.NESAR FOR PETITIONERS.
MS. MAMTA SAADH I/B. V.DESHPANDE & CO.FOR RESPONDENT NO.4.

CORAM : S.K.SHAH, J.
DATE : September 29, 2005.

P.C.:

1. Rule, returnable forthwith and heard finally by consent of the parties.

2. The Petitioner is entertained as it appears that there is gross injustice caused to the Petitioner as the claim in Recovery Certificate is also made against him for the period for which he was never in possession of the flat and also that he does not claim any ownership over the flat during that period i.e. during 1989 to 31st March, 1995.

3. The Order impugned is not sustainable as it is passed without any reasoning and without giving an opportunity of being heard to the petitioner. The Impugned Order is, therefore, set aside. The matter is remanded back to the Deputy Registrar for considering it on merits and deciding it by reasoned Order.

4. The Petitioner shall deposit the admitted liability of Rs. 9,69,821.50 Ps. which is for the period from 1st April, 1995 to 30th September, 2004, with the Society. Further, the Petitioner shall also deposit with the Society the amount of interest @ 12% per annum from 1st April, 1995 to 30th September, 2004 on Rs. 9,69,821.50 Ps. It is made clear that depositing of this amount of interest, which the Petitioner would be depositing, would be the disputed sum and the liability in that respect would be finally decided. The aforesaid amount shall be deposited with the Society within a period of 8 weeks from today. It is, thereafter, the Deputy Registrar shall proceed with the matter. In case of failure to deposit the aforesaid amount, the Order of the Deputy Registrar shall stand.

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[S.K.SHAH, J.]